

Distributed on September 17, 2021 to MAU HR Representatives

The following is a summary of the processes to be used for support staff employees who fail to comply with the University's Covid-19 Directives pertaining to vaccinations.

The Office of Employee Relations ("Employee Relations") will provide MAU HR representatives with a list of employees who are not in compliance. The MAU HR representatives should then work with those individuals typically responsible for disciplinary processes in their units. Employee Relations will remain an important partner to support this process.

Enclosed are the disciplinary processes for two groups:

- 1) Unionized regular full and part-time support staff employees represented by a labor union (CT, AP, APSA, Local 1585, SSTU, POAM, Local 274, Local 324) and temporary employees represented by AFSCME Local 1585 and CTU
- 2) Non-union support staff employees (including student employees) holding regular full-time and part-time support staff positions.

Please contact Employee Relations (HR.ER@hr.msu.edu) if there are any questions concerning any support staff employee. Please contact Academic Human Resources concerning any FAS employee.

Process for Unionized regular full and part-time support staff employees represented by a labor union (CT, AP, APSA, Local 1585, SSTU, POAM, Local 274, Local 324) and temporary employees represented by AFSCME Local 1585

First Step – One Week Unpaid Suspension:

- I. Persons who are non-compliant and referred for discipline include:
 - a. Those who have not fully completed the vaccine verification form.
 - b. Those who have completed the vaccine verification form but:
 - i. Indicated they will not become vaccinated, and/or
 - ii. Sought an exemption that was denied and who have not become vaccinated
 - iii. Indicated that they would seek an exemption but failed to do so.
- II. These individuals have received or will be receiving e-mail notifications informing them that they are non-compliant with the Directives. Those referenced in I.b.i. above have also received e-mail messages warning them that they were non-compliant and would be referred for discipline if they did not become compliant.
- III. The first step in the discipline process will, in most cases, involve a one-week unpaid suspension. **It is the unit's responsibility to enter the one-week unpaid suspension into EBS/SAP. The unit should record this time as unpaid unexcused time.**
 - a. The typical process for imposing discipline will be followed.
 - i. A meeting with the employee will be required.¹ Consider any potential defenses or explanations (with limits that the University is not considering additional exemptions outside of medical and religious) offered by the employee. If at the completion of the meeting there is no additional legitimate defense to consider, the *Notice of Non-Academic Disciplinary Act Form* should be presented to the employee at the completion of the meeting. A copy should also be sent to avphr.performance@campusad.msu.edu
 - ii. If the employee is represented by the CT, AP, APSA, Local 1585, SSTU, POAM, Local 274, or Local 324 union, then a request by the employee for a union representative to attend the meeting should be accommodated.
 - iii. The *Notice of Non-Academic Disciplinary Action Form* will be used. <https://hr.msu.edu/ua/forms/documents/nonAcademicDiscipline.pdf>
 - a. Discipline should be administered on a case-by-case basis. It is suggested that the *Notice of Non-Academic Disciplinary Action*

¹ The meeting should be focused on two questions to the employee: 1. Our records indicate that you have not complied with the University's Covid-19 Directives pertaining to vaccinations. Is this correct? 2. Do you have an explanation and/or defense for the non-compliance? It is not necessary to ask to see a copy of a vaccination card. However, you may ask for a card in those cases where you believe the employee may not be honest.

Form be utilized by the unit by checking the suspension box with the following violations of the Support Staff Rules Governing Personal Conduct. This list should be adjusted as appropriate based on the circumstances:

- Rule #5: Noncompliance with safety rules and regulations including failing to comply with safety rules and regulations established by unit supervisors, the Michigan State University Police Department, the Office of Environmental Health and Safety, or local, state or federal statute.
 - Rule #5: Noncompliance with safety rules and regulations including creating or contributing to disorderly, unclean, or unsafe working conditions.
 - Rule #8: Poor work performance as evidenced by refusal or willful failure to carry out a supervisor's instructions, including the assigned duties of the position, when such instructions do not require unsafe or illegal acts.
- iv. Please insert the following in the box titled Future Infraction(s) may result in: "You must contact your unit HR to confirm you have started or completed a vaccination process BEFORE returning from your suspension. You must also complete a new vaccine verification form showing you have started or completed the vaccination BEFORE you can return to work. Failure to do so, will result in you being placed on an unpaid administrative suspension pending consideration of your termination. You will be required to complete the vaccination process as appropriate."
- v. It is understood it may take some time to complete this process. However, the suspension should take effect immediately upon completion of the meeting.
- b. There may be cases where the employee should not receive discipline as they are vaccinated but either did not complete the vaccine verification form or there was a system error which resulted in them being on the non-compliant list.
- i. The University is not seeking to discipline employees for not filling out the vaccine verification form or failing to do so correctly. The goal is to require vaccination to help keep the MSU community safe.
 - ii. If an employee claims to be vaccinated but did not complete the form (or did not do so correctly), please require them to complete and re-submit the vaccine verification form immediately. It is advisable to have a computer available for this purpose.
 - 1. Also manually copy their information.
 - 2. Contact Employee Relations (HR.ER@hr.msu.edu) so their information can be shared with ITS.

3. It is not necessary to ask to see a copy of a vaccination card. However, you may ask for a card in those cases where you believe the employee may not be honest.
 4. Falsification of the vaccine verification form is a serious issue, independent of the failure to comply with the COVID-19 directive.
 5. Please contact Employee Relations (HR.ER@hr.msu.edu) with any examples of dishonesty or falsification of the vaccine verification form.
- c. Employees who are on a one-week suspension should be instructed to contact their unit HR to confirm they have started or completed a vaccination BEFORE they return. They should also be told they must complete a new vaccine verification form showing they have started or completed the vaccination BEFORE they can return to work. They will be required to complete any two-step vaccination process.
- i. Please contact Employee Relations (HR.ER@hr.msu.edu) to obtain confirmation they are shown as in compliance in the system BEFORE allowing the employee to return.
 - ii. The Employee cannot return to work until they are confirmed to be in compliance. If the employee fails to confirm they have started or completed a vaccination process BEFORE they return (either by not contacting their unit HR or by reporting they have not been vaccinated) they shall proceed to the Second Step (below).
- d. The probationary period should be terminated for any probationary employee who is not vaccinated and did not received an approved exemption. There is no need to issue a disciplinary suspension in the case of a probationary employee. Rather, the probationary period should end and the probationary employee terminated.

Second Step – Suspension Pending Investigation – Unpaid Administrative Suspension

- I. An employee who has not started or completed a vaccination process at the end of the one-week unpaid suspension should be placed on unpaid administrative suspension (using the Suspension Pending Investigation form located here: <https://hr.msu.edu/ua/discipline/documents/suspendpendinginvestigation.pdf>) and not permitted to return to work. **Once completed, the unit should email this form to avphr.performance@campusad.msu.edu. The unit does not need to enter any time in EBS/SAP. Once processed, the MSU Human Resources leaves team will handle these time entries.**
- II. The administrative suspension will continue until the unit can complete the Third Step below.
- III. The employee may use any period of the unpaid administrative suspension to re-consider their decision and to come into compliance.

- a. If they have been vaccinated, they will need to complete a new vaccination form BEFORE they can return.
- b. Please contact Employee Relations (HR.ER@hr.msu.edu) to obtain confirmation they are shown in compliance in the system BEFORE allowing the employee to return.
- c. The Employee cannot return to work, and must remain on an unpaid administrative suspension, until they are confirmed to have begun the vaccination process and received at least one dose.

Third Step – Discharge

- I. Discipline should be administered on a case-by-case basis. Employees who are on the unpaid administrative suspension but who have not started or completed a vaccination process at the end of the suspension should, in most cases, be terminated. **It is the unit's responsibility to submit the termination request form. The termination code that should be utilized for this type of termination is titled "Covid Vaccine Mandate."**² NOTE – Please read the footnote below.
 - i. Prior to discharge, a meeting with the employee will be required.³ Consider any potential defenses or explanations (with limits that the University is not considering additional exemptions outside of medical and religious) offered by the employee. If at the completion of the meeting there is no additional evidence to consider, the *Notice of Non-Academic Disciplinary Act Form* should be presented to the employee at the completion of the meeting. A copy should also be sent to avphr.performance@campusad.msu.edu
 - ii. If the employee is represented by the CT, AP, APSA, Local 1585, SSTU, POAM, Local 274, or Local 324 union, then a request by the employee for a union representative to attend the meeting should be accommodated.
 - iii. The Non-Academic Disciplinary Action Form will be used. <https://hr.msu.edu/ua/forms/documents/nonAcademicDiscipline.pdf>
Discipline should be administered on a case-by-case basis. It is suggested that The Notice of Non-Academic Disciplinary Action Form be utilized by the unit by checking the discharge box with the following violations of the Support Staff Rules Governing Personal Conduct (but should be updated as appropriate):

² There will also be a second new termination code titled "Covid EDP Mandate." This code should **not** be utilized here. MSU Human Resources will be sending an email regarding the new codes on September 20, 2021.

³ The meeting should be focused on two questions to the employee: 1. Our records indicate that you continue to remain non-compliant with the University's Covid-19 Directives pertaining to vaccinations. Is this correct? 2. Do you have an explanation and/or defense for the non-compliance? It is not necessary to ask to see a copy of a vaccination card. However, you may ask for a card in those cases where you believe the employee may not be honest.

- Rule #5: Noncompliance with safety rules and regulations including failing to comply with safety rules and regulations established by unit supervisors, the Michigan State University Police Department, the Office of Environmental Health and Safety, or local, state or federal statute.
 - Rule #5: Noncompliance with safety rules and regulations including creating or contributing to disorderly, unclean, or unsafe working conditions.
 - Rule #8: Poor work performance as evidenced by refusal or willful failure to carry out a supervisor's instructions, including the assigned duties of the position, when such instructions do not require unsafe or illegal acts.
- iv. It is understood this process will take time and effort to complete. The goal should be to complete the entire disciplinary process within thirty days.

Process for non-union on-call employees and student employment positions (this excludes those who hold support staff positions and who are enrolled in classes)

- I. Persons who are non-compliant and referred for discipline include:
 - a. Those who have not completed the vaccine verification form.
 - b. Those who have completed the vaccine verification form but:
 - i. Indicated they will not become vaccinated.
 - ii. Sought an exemption but that exemption was denied and who have not become vaccinated.
 - iii. Indicated that they would seek an exemption but failed to do so.
- II. It is possible the list may include on-call employees who truly no longer work for the university and whom the unit no longer expects to employ. **The unit should separate those employees in the system through the appropriate action.**
- III. These individuals have received or will receive e-mail notifications informing them that they are non-compliant with the Directives. Those referenced in I.b.i. above have also received e-mail messages warning them that they were non-compliant and would be referred for discipline if they did not become compliant.
- IV. In most cases, these employees should be terminated for non-compliance with the vaccine requirement. Discipline should be administered on a case-by-case basis.
 - a. A meeting with the employee should be considered.
 - b. **Non-union support staff employees** – The Non-Academic Disciplinary Action Form will be used for non-union support staff employees.
<https://hr.msu.edu/ua/forms/documents/nonAcademicDiscipline.pdf>
 - i. It is suggested that The Notice of Non-Academic Disciplinary Action Form be utilized by the unit by checking the discharge box with the following violations of the Support Staff Rules Governing Personal Conduct:
 - Rule #5: Noncompliance with safety rules and regulations including failing to comply with safety rules and regulations established by unit supervisors, the Michigan State University Police Department, the Office of Environmental Health and Safety, or local, state or federal statute.
 - Rule #5: Noncompliance with safety rules and regulations including creating or contributing to disorderly, unclean, or unsafe working conditions.
 - Rule #8: Poor work performance as evidenced by refusal or willful failure to carry out a supervisor's instructions, including the assigned duties of the position, when such instructions do not require unsafe or illegal acts.

- c. **Student Employees** – The Student Employment Manual contains Rules Governing Personal Conduct of Student Employees. That manual can be found here: <https://hr.msu.edu/policies-procedures/student-handbook/index.html>
 - i. It is suggested that the unit's typical process for disciplining student employees be utilized. If one is not in place, a letter with the following violations of the Rules Governing Personal Conduct of Student Employees can be utilized for the meeting with the student employee:
 - Noncompliance with safety rules and regulations including failing to comply with safety rules and regulations established by unit supervisors, the Michigan State University Police Department, the Office of Environmental Health and Safety, or local, state or federal statute.
 - Refusal or willful failure to carry out a supervisor's instructions, including the assigned duties of the position, when such instructions do not require unsafe or illegal acts.
 - d. It is understood it may take some time to complete this process. However, the termination should take effect immediately upon completion of the meeting.
- V. If an employee claims to be vaccinated but did not complete the form (or did not do so correctly), please require them to complete and re-submit the vaccine verification form immediately. It is advisable to have a computer available for this purpose.
 - a. Also manually copy their information.
 - b. Contact Employee Relations (HR.ER@hr.msu.edu) so their information can be shared with ITS.
 - c. It is not necessary to ask to see a copy of a vaccination card. However, you may ask for a card in those cases where you believe the employee may not be honest.
 - d. Falsification of the vaccine verification form is a serious issue, independent of the failure to comply with the COVID-19 directive.
 - e. Please contact Employee Relations (HR.ER@hr.msu.edu) with any examples of dishonesty of falsification of the vaccine verification form.